

**EXHIBIT 1: EXCERPTS OF DEPOSITION OF STEPHANIE
STEPHENS**

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

HAZEL ROBY, as Administratrix of)
the Estate of RONALD TYRONE)
ROBY, Deceased,)

Plaintiffs)

VS.)

BENTON EXPRESS, INC., et al.,)

Defendants.)

) CIVIL ACTION

) NO. 2:05

) CV494-B

The video deposition of STEPHANIE STEPHENS,
pursuant to notice and the within stipulation at
the law office of Thomas J. Ueberschaer, 601
North Baylen Street, Pensacola, Florida,
beginning at 9:17 a.m., on December 8, 2005.

BEFORE: Rachel S. Landreneau, CCR, LA, MS

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1 BY MR. BROCKWELL CONTINUED:

2 Q. Ms. Stephens, do you mind taking a look
3 at these phone records that we've marked as
4 Defense Exhibit One?

5 A. (Witness complies.)

6 Q. Are those the records that you looked at
7 when you were trying to see what activity there
8 had been on Mr. -- on your husband's phone?

9 A. Yes.

10 Q. And, uh, looking at those records, can
11 you tell that on April the 8th, throughout the
12 day, you talked to your husband, uh, about ten
13 times?

14 A. (Witness reviewing documents.) Yes,
15 looks that way.

16 Q. With the last one being at 9:23 p.m.?

17 A. Yes.

18 Q. Did you talk to him on any other phone or
19 in any other way after that call?

20 A. No, that's my bedtime.

21 Q. And so, uh, when -- well, first, let's
22 say, when your husband was making trips for
23 Benton Express, they were usually at night; is

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1 A. I didn't get an answer.

2 Q. Uh, did you get his voice mail?

3 A. Uh, yes.

4 Q. Did you ever leave him any messages?

5 A. I don't think -- I may have, but I don't
6 -- I don't recall leaving a message.

7 Q. Um --

8 A. Because he didn't know how to pick them
9 up.

10 Q. Did you send him any, uh, text messages?

11 A. No.

12 Q. Was that something you all ever did,
13 was --

14 A. No.

15 Q. -- send text? Okay. What about on
16 Sunday? Did you talk to him at all on Sunday?

17 A. No.

18 Q. Did you keep trying to call him?

19 A. Yes.

20 Q. Uh, did he ever answer?

21 A. No.

22 Q. Do you recall if you left him a voice
23 mail on Sunday at any --

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1 that right?

2 A. Yes.

3 Q. He would leave, uh, around suppertime and
4 be gone most of the night; is that --

5 A. Yes.

6 Q. -- correct? And so, would you talk to
7 him up until you went to bed?

8 A. Usually.

9 Q. And when I say talk to him, I don't mean
10 continuously, but talk to him a -- a couple or
11 three times, something like that?

12 A. Yes.

13 MR. BOONE: Object to form.

14 BY MR. BROCKWELL CONTINUED:

15 Q. And is that what you did on Friday, April
16 the 8th?

17 A. Yes.

18 Q. But you didn't talk to him on Saturday at
19 any time?

20 A. No.

21 Q. Did you try to call him?

22 A. Yes.

23 Q. What happened when you tried to call him?

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1 A. No.

2 Q. -- time? Uh, on Monday, did you try and
3 call him at all?

4 A. Yes.

5 Q. Um, did you ever get an answer from him?

6 A. No.

7 Q. Did you ever leave him a voice mail?

8 A. No.

9 Q. How many times do you think you tried to
10 call your husband during the weekend he was gone?

11 A. Uh, a lot. Twenty, thirty times. A lot.

12 Q. And isn't it true that you testified in
13 your other case that there were times you tried
14 to call him every ten minutes?

15 A. Yes, uh-huh.

16 Q. And despite that, he never answered, did
17 he?

18 MR. BOONE: Object --

19 A. True.

20 MR. BOONE: -- to the form.

21 BY MR. BROCKWELL CONTINUED:

22 Q. Uh, did he ever call you during, uh,
23 April the 9th or April the 10th or April the 11th?

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1 MR. BOONE: Objection to form.

2 A. Um, Craig always purchased stuff for his
3 drum set or the church, and I would say, "Craig,
4 we're building a house." Just, yeah, I'm - I'm
5 sure I probably did say something about him
6 purchasing something for the drum set.

7 BY MR. BROCKWELL CONTINUED:

8 Q. And so you all had disagreements about
9 purchases, uh, at various times; is that right?

10 A. Yes.

11 Q. And, uh, is a thousand dollars something
12 you'd considered a lot of money?

13 A. Yes, uh-huh.

14 Q. Had -- had your husband ever withdrawn or
15 spent a thousand dollars while he was out on a
16 run for Benton Express before?

17 A. No.

18 MR. BOONE: Objection to form.

19 MR. BROCKWELL: Let me stop so that she
20 can change our tape.

21 THE VIDEOGRAPHER: Off the record at
22 11:22.

23 (At this time, a break was taken.)

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1 it, but it wasn't unusual.

2 Q. Uh, I mean, can you give us just a -- a
3 ballpark number?

4 A. Um, ten, eleven. I don't know.

5 Q. Well, he didn't do it every week
6 certainly?

7 A. No.

8 Q. Did he do it, uh, every month?

9 A. Tried to do it every month.

10 Q. Were there some months where he would do
11 it more than once?

12 A. Yes.

13 Q. And, uh, in your deposition back in June,
14 um, you testified -- and you may have just been
15 making a best -- your best guess, that, uh, your
16 husband would have made the trip 30, 40 or 50
17 times during the time that he was, uh, been an
18 employee of Benton Express?

19 A. Yeah. I don't, I -- he just -- I know he
20 often did it. I don't have a stick number with
21 it, or -- I don't know.

22 Q. Um, well, was there any -- we know he
23 didn't do it every week?

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1 THE VIDEOGRAPHER: Okay. We're back on
2 the record at 11:25.

3 BY MR. BROCKWELL CONTINUED:

4 Q. Uh, Ms. Stephens, your husband's regular
5 run for Benton Express was from Pensacola to
6 Tallahassee and back; is that right?

7 A. That's correct.

8 Q. And he would do that, uh, on Sunday,
9 Monday, Tuesday, Wednesday and Thursday evenings;
10 is that right?

11 A. Correct.

12 Q. And, uh, Garland McClelland's (phonetic)
13 regular run was the Pensacola to Atlanta and back
14 to Pensacola run; is that right?

15 A. To the best of my knowledge.

16 Q. Uh, but your husband would, uh, sometimes
17 cover the Atlanta run for Mr. McClelland; is that
18 right?

19 A. Correct.

20 Q. How many times, uh, in the year or so
21 that your husband worked for Benton Express did
22 he make the Atlanta run?

23 A. Several. I -- I don't have a number on

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1 A. Uh-huh.

2 Q. And I think you said that he, he tried to
3 do it at least once a month; is that right?

4 A. Once or twice, however many times Garland
5 had something to do or he wanted to make extra
6 money.

7 Q. All right. Well, uh, whatever the number
8 of times was that he made the trip, uh, was there
9 ever a time he was gone for the entire weekend
10 like this?

11 A. No.

12 Q. Uh, was there ever a time where he, uh,
13 left and, uh, you didn't hear from him for 48
14 hours?

15 A. No.

16 Q. I think you testified that, uh, you were
17 concerned when he was not back in Pensacola by,
18 uh, around lunch time on Saturday, April the 9th;
19 is that right?

20 A. Correct.

21 Q. What was your concern for?

22 A. Because of the area of, uh, Benton
23 Express and the places he had to fuel up, I just,

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1 um -- and him not contacting me, I thought
2 something was wrong, that someone may have
3 hijacked him or took some, you know.

4 Q. Right. Well, you know now that he wasn't
5 hijacked, don't you?

6 MR. BOONE: Object to the form.

7 A. I don't know.

8 BY MR. BROCKWELL CONTINUED:

9 Q. Well, you know --

10 A. I mean -- I know he was back in the
11 truck, and that's what I know.

12 Q. So if he was hijacked, apparently he
13 hijacked it back from the hijackers?

14 A. I don't know.

15 MR. BOONE: Object to the form.

16 A. I have no idea how.

17 BY MR. BROCKWELL CONTINUED:

18 Q. Um, what time were you expecting him to
19 come back home?

20 A. At least by noon Saturday.

21 Q. And why was that?

22 A. Um, because that -- uh, we had things we
23 was going to do that weekend. Uh --

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1 A. Yes, our pastor.

2 Q. Uh, what did you talk to the pastor about
3 on Saturday?

4 A. That Craig was missing and we were trying
5 to find him.

6 Q. Uh, did the pastor have any advice for
7 you or anything?

8 A. Did he have any advice? Uh, no.

9 Q. Well, I mean, did he say anything in
10 response to Craig being missing?

11 A. He said if he's not back soon, that we'll
12 go out looking, 'cause he knew I would get on the
13 road by myself.

14 Q. Uh, did the pastor ever go out looking?

15 A. Yes.

16 Q. Do you know how far he went?

17 A. To, uh, Montgomery and back.

18 Q. Uh, did you go with him?

19 A. Yes.

20 Q. Did you ever -- did you stop anywhere
21 along the way to Montgomery?

22 A. No.

23 Q. What time was it that you all made that

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1 Q. Was he normally home by noon if he left
2 on Friday evening to go to Atlanta?

3 A. Yes, uh-huh.

4 Q. What were you all planning to do that
5 weekend?

6 A. Uh, redo Sarina's playground, or
7 playhouse.

8 Q. And that's what he bought the plywood
9 for?

10 A. Yes.

11 Q. Did you all have any church activities
12 planned that weekend?

13 A. Sunday service.

14 Q. Uh, was he supposed to play the drums in
15 the church band that Sunday?

16 A. Yes.

17 Q. And did you go to church on Sunday, April
18 the 10th?

19 A. No.

20 Q. Did you call anybody and tell them that
21 Craig wouldn't be there to play the drums?

22 A. Um, they knew it, from Saturday.

23 Q. Had you talked to somebody on Saturday?

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1 trip?

2 A. We made the trip about, uh, I guess, uh,
3 five o'clock. It was night when we came back.
4 It was getting dark when we came back, so I -- I
5 would say around five.

6 Q. All right. So you think you left about
7 five in the evening?

8 A. Uh-huh.

9 Q. And, uh, when did you come back?

10 A. Uh, three hours later. Three -- three
11 and a half hours later.

12 Q. And you all didn't see your husband's
13 truck anywhere along --

14 A. No.

15 Q. -- the way? Um, did anybody else go with
16 you when you all went out searching?

17 A. No.

18 Q. Do you know that, uh, Glenn Clark also
19 went out searching for Mr. Stephens?

20 A. Yes.

21 Q. And were you in touch with Mr. Clark
22 while he was out searching?

23 A. Yes.

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1 Q. All right. What do you understand that
2 Mr. Clark did when he went searching?

3 A. He and his wife went looking at ditches,
4 also. Rest stops. He stopped at every rest
5 stop. He stopped at, I guess, truck stops,
6 whatever, uh-huh.

7 Q. Um, and do you recall that Mr. Clark was
8 out on this trip from about nine in the evening
9 until about four a.m. on Sunday?

10 MR. BOONE: Objection to form.

11 A. Um, I don't know. I don't recall what
12 time it -- what day or time that was.

13 BY MR. BROCKWELL CONTINUED:

14 Q. Had, uh, had your husband ever left for
15 Atlanta on a Friday evening and not returned
16 until Monday morning?

17 A. No.

18 Q. Had he ever left for Atlanta on a Friday
19 evening and not returned until Sunday morning?

20 A. No.

21 Q. Uh, in your experience when he left for
22 Atlanta on a Friday evening, was he back by
23 around lunch time, or -- or earlier on Saturday?

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1 Q. -- so he could be there in time --

2 A. Uh-huh.

3 Q. -- for church?

4 A. Right.

5 Q. And the whole time your husband was
6 working for Benton Express, was he ever gone for
7 more than one night at a time?

8 A. No.

9 Q. I think, uh, you testified earlier that
10 he -- on Friday, April the 8th, he left your
11 house about 5 p.m. Was that right?

12 A. Yes.

13 Q. And did he go -- your understanding was
14 that he was going from there to the Benton
15 Express terminal --

16 A. Yes.

17 Q. -- to start his drive? How far is it
18 from your house to the terminal?

19 A. About 20 minutes.

20 Q. Do you have, uh, any idea of what your
21 husband was doing in Atlanta on April the 9th and
22 April the 10th?

23 A. No.

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1 A. Yes. Or he would leave on a, uh,
2 Saturday and, uh, come back early Sunday morning
3 or something like that.

4 Q. But whenever he made the trip, whether he
5 left on Friday or on Saturday, he was back by the
6 next day?

7 A. Uh, yes, except for when he would, uh,
8 get someone to cover if we had a church event or
9 something where he wanted to be home Sunday.

10 Q. Okay. And, uh, are you saying he would
11 be back earlier if he -- if he had a church
12 event?

13 A. No.

14 Q. I'm not sure what you're saying.

15 A. He, he would, he would be back, um, that
16 Sunday morning, no later than that Sunday morning
17 if he had another person, probably Glenn -- I
18 mean, um, uh, Garland to make his, uh, Sunday
19 run.

20 Q. Okay. So you're saying that he would,
21 that he might make the Atlanta run on Saturday
22 and come back early Sunday morning --

23 A. Uh-huh.

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1 MR. BOONE: Object to the form,
2 speculation.

3 BY MR. BROCKWELL CONTINUED:

4 Q. Since the time of his accident, has there
5 been anybody that's told you what he may have
6 been doing, what they thought he was doing or
7 anything?

8 A. No.

9 Q. Uh, what you do know, you expected to see
10 him home on Saturday; is that right?

11 A. Yes.

12 Q. Um, and as far as you know, Benton
13 Express expected to see him back on Saturday; is
14 that --

15 MR. BOONE: Objection, form.

16 BY MR. BROCKWELL CONTINUED:

17 Q. -- right?

18 A. They expected him to have the truck there
19 by Monday morning.

20 Q. Well --

21 A. But if he left on a Friday or -- they
22 expected him back no later than Sunday, I would
23 imagine.

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1 Q. Well, he'd never done that, though?
2 A. No, he'd never done that.
3 Q. Okay. And, uh, we know that Glenn Clark
4 was concerned about him being missing just like
5 you were, wasn't he?
6 A. After I informed him that I was
7 concerned.
8 Q. And we know that Glenn Clark went out
9 searching for him, don't we?
10 A. Yes.
11 Q. Um, and we know that your husband never
12 came back on Saturday, don't we?
13 A. Yes.
14 Q. And he never came back on Sunday; is that
15 right?
16 A. That's correct.
17 Q. Uh, and, uh, we know he didn't ever call
18 you while he was gone that weekend?
19 A. Correct.
20 Q. We know he never answered his phone when
21 you tried to call him?
22 A. Correct.
23 Q. Okay. Um, we know that it -- that he at

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1 least had his phone with him at the time of his
2 accident, don't we?
3 A. Yes.
4 Q. And, uh, we know from the -- the phone
5 records that at least somebody was able to use
6 his phone that weekend, weren't they?
7 A. Correct.
8 Q. We know from the banking records that
9 somebody was able to make, uh, about 17
10 transactions in the Atlanta area; is that right?
11 A. Correct.
12 Q. Um, and we know that almost a thousand
13 dollars was withdrawn from the account; is that
14 right?
15 A. Correct.
16 Q. You know that your husband had never done
17 anything like this before, don't you?
18 A. Correct.
19 Q. You know that whatever your husband was
20 doing that weekend, he wasn't where he was
21 supposed to be --
22 MR. BOONE: Objection.
23 MR. BROCKWELL: -- is that right?

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1 MR. BOONE: Objection, form.
2 A. I don't know that.
3 BY MR. BROCKWELL CONTINUED:
4 Q. Well, he was supposed to be back in
5 Pensacola --
6 A. I know.
7 Q. -- on Saturday; right?
8 A. But I don't know if that was, uh, by his
9 will or not. I don't know --
10 Q. Well --
11 A. -- 'cause I wasn't there.
12 Q. And -- and I'm not asking you that.
13 A. Okay.
14 Q. But, uh, but you know that regardless of
15 whatever was going on in Atlanta, he was not in
16 Pensacola where he was supposed to be on
17 MR. BOONE: - objection
18 MR. BROCKWELL: Saturday; is that
19 right?
20 MR. BOONE: Objection to form.
21 A. He was not in Pensacola on Saturday.
22 BY MR. BROCKWELL CONTINUED:
23 Q. Okay. And you know whatever may have

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1 happened to him in Atlanta, whatever he, he may
2 have been doing, he wasn't back in Pensacola when
3 he was supposed to be back --
4 MR. BOONE: Objection to form.
5 MR. BROCKWELL: -- in Pensacola?
6 MR. BOONE: Compound question.
7 BY MR. BROCKWELL CONTINUED:
8 Q. Is that correct?
9 A. He was not in Pensacola on Saturday.
10 MR. BROCKWELL: Let's take a quick break
11 I just need to look through my notes here.
12 THE VIDEOGRAPHER: Off the record,
13 11:39 a.m.
14 (At this time, a break was taken.)
15 THE VIDEOGRAPHER: We're back on the
16 record at 11:42 a.m.
17 BY MR. BROCKWELL CONTINUED:
18 Q. Ms. Stephens, have you heard, uh, that
19 your husband called Garland McClelland on the
20 evening of Sunday, April the 10th?
21 A. I heard that.
22 Q. Have you heard what your husband told
23 Mr. McClelland during that conversation?